REMARKS

Claims 1, 2 and 7-22 are all the claims pending in the application. In view of the

foregoing remarks, applicant respectfully requests withdrawal of the rejection, and allowance of

the claims.

Claims 1, 2, and 7-22 stand rejected based on the Examiner's proposed combination of

previously-cited Ryan and newly-cited Subramonian. The Examiner indicates that Ryan fails to

disclose or suggest the bolded portion:

> recognizing communication between said central program code and remote
> program code at at least one remote terminal; said remote program code being
> adapted for monitoring user activity of at least one user accessing any information
> source in the search space irrespective of whether a uniform resource locator
> (URL) accessed in the search space is the same as the URL of said central
> program code, for collecting monitored data related to said user activity, and for
> transmitting said monitored data to said central program code, **wherein said
> remote program code monitors said user activity without requiring said at
> least one user to access a search engine or any particular web site, and the
> monitoring is independent of the at least one user's access to any search
> engine**
> as recited in independent claims 1, 2, 21 and 22.

Explanation of Claim Language

The foregoing claim language requires that the remote program code monitor the *activity*

of a user *who is accessing an information source in the search space*. The monitoring occurs

irrespective of whether a URL accessed in the search space is the same as the URL of the central

program code. The monitored data is *transmitted to the central program code*.

The claimed monitoring is performed by the remote program code, i.e., at the client

computer, without requiring the user to access a search engine or any particular website. Further,

the monitoring is *independent* of the user's access to the search engine. However, it should be

noted that the activity that is being monitored and transmitted to the central program code is

access to an information source in the search space.

Ryan

Ryan discloses a search engine. As explained in the May 23, 2008 response, the search

engine of Ryan does monitor user data, and that data is transmitted to the search engine.

Applicant respectfully submits that the search engine of Ryan would does not and cannot

monitor *a user who is accessing information in the search space who does not access the*

particular website or search engine of Ryan. In the current Office Action, the Examiner notes

that Ryan does not disclose this claimed feature. Ryan is a "closed" system directed to server-

based user profiling, i.e., the search engine of Ryan is required for the monitoring activity.

In order to convert Ryan from a closed system into an open system, Subramonian is

proposed. Columns 6-8 include monitoring a user's interactions with a browser, and collecting

content and context information based on the user's activities. However, it is noted that (a)

Subramonian teaches that sharing such information with a search or the like is disadvantageous,

and (b) the results of the data monitored in Subramonian are never actually transmitted to a

search engine, but instead stays at the client side.

In view of the foregoing, applicant respectfully submits that the combination of Ryan

with Subramonian is not proper, for at least the following reasons.

Subramonian Teaches Away From Ryan and the Claimed Invention

Applicant submits that the Subramonian reference as a whole teaches away from the

storage of monitored user information at a central location. For example, column 2, lines 37-51

disclose that it is disadvantageous for users to build personal web pages or customize the

contents of the web pages, in terms of security concerns. More specifically, *the storage of user information on a web site that is remote from the client's computer raises security concerns.* Applicant respectfully submits that the foregoing is exactly what Ryan does, and thus Subramonian teaches away from Ryan.

As an additional example, applicant directs the Examiner to column 2, lines 52 - column 3, line 30 of Subramonian, which is directed to techniques associates with a particular website, which monitor or record information, and may collect data in the form of "cookies" or the like. Subramonian teaches that such collection of data is used to create profiles. Further, this passage discloses that such techniques are disadvantageous, because the user has little control once the monitored data has been collected by the information gathering process, and because the collected data is generally retrieved without the user's permission.

Applicant respectfully submits that the foregoing passage of Subramonian telling those skilled in the art what *not* to do resembles what Ryan *does*. Subramonian, by teaching that such a scheme is disadvantageous, teaches away from the search engine-based monitoring of Ryan.

Further, applicant cites to column 3, lines 48-51, which specifically teach away from server intervention in the creation of a user profile. It is noted that the "surfer trace" technology of Ryan is directed to exactly this type of server intervention. Moreover, this difference is central to the operation of Ryan as compared with Subramonian. Essentially, Subramonian is focused on user security, and walling off the data from the server-side applications. See also column 10, lines 22-29 of Subramonian, which disclose that there is no server intervention in the creation of the profiles, and that security concerns are thus minimized.

On the contrary, Ryan, rather than being concerned about minimizing the amount of monitored data that can be captured in a central location, actually focuses on using the search

engine to collect as much user data as possible, and without the user's control or knowledge in some cases. See Ryan at column 2, lines 25-37, which discloses that the database is updated with the information from many users in order to determine website popularity. See also column 8, lines 58-67, which discloses that the user data monitored by the website is sent to the search engine.

To the extent that the claimed invention requires transmission of the monitored data to the central program code, applicant respectfully submits that Subramonian teaches away from the claimed invention as well.

Combination would render Ryan inoperable for Principle Purpose, and destroy Functionality

Applicant respectfully submits that one of ordinary skill in the art at the time of the invention such as a computer programmer with an ordinary level of education and common sense, would have seen Ryan as teaching that a search engine should be optimized to maximize the user data that is monitored and collected. Such a programmer would not have had a reason to make the remote code independent from the search engine by simply not permitted the search engine to access the user data.

One of skill in the art would see that such a combination would (a) defeat the purpose of Ryan by making it impossible for the server to collect user data in view of the security focus of Subramonian and (b) cutting the communication between the remote program code and central program code with respect to monitored data, which is what is essentially required in order to implement Subramonian, would destroy the functionality of Ryan.

Only possible reason for combination is impermissible hindsight reconstruction

The only suggestion of such independence between the search engine and the monitoring, with the data being then sent to a central program code, is in the specification of the application for the presently claimed invention. Applicant notes that the suggestion having its basis in the specification that supports that claims cannot be a proper basis for combination, and that the reason must be based in the prior art, considered the level of skill of one of ordinary skill in the art at the time of the invention.

Additionally, applicant respectfully submits that the proposed combination could not be properly made of the teachings of the reference as a whole are considered. For example, but not by way of limitation, even if certain parts of Subramonian disclose or suggest independence between a search engine and remote code, this independence must be considered in the context of the reference, which, as explained above, is directed to a more secure system that segregates user profiles from server-side access, which is quite the opposite of what a search engine seeks to do with respect to a particular web site, and is also quite the opposite of what the claimed invention seeks to do, independent of a website (i.e., by sending the results of the remote code monitoring to the central code). Applicant respectfully submits that when one of ordinary skill in the art at the time of the invention is faced with Ryan, then looking to Subramonian would be a step *away* from the teachings of Ryan in terms of customization of the search engine. Taking the context of Subramonian into consideration, applicant respectfully submits that there is no reason, in view of a level of predictability and common sense of one skilled in the art, to have a reason to make the combination.

Applicant respectfully submits that the dependent claims are allowable for at least the same reasons as discussed above with respect to the independent claims.

Conclusion

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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